

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MISSOURI
3

4 ANGELA MALCICH,

5
6 PLAINTIFF,

7
8 vs.

No. 4"20-CV-01030-AGF

9
10 SAINT LOUIS COUNTY, ET AL.,

11
12 DEFENDANTS.
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14 Deposition of ROSS A. HELLER, MD, MBA, FACEP,
15 taken on via Zoom Conference, on the 9th day of
16 March, 2022, between the hours of 9:30 a.m and 2:00
17 p.m., before Linda DeBisschop, CSR, CCR, Illinois
18 CSR No. 084.004741, Missouri CCR No. 779.
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Exhibit 2

<p style="text-align: right;">Page 62</p> <p>1 respect to the guards. My focus for me is just the 2 nursing staff. 3 So in that sentence I read to you, 4 are you referring to nursing staff doing that or are 5 you referring to guards or are you referring to 6 both? 7 A I was referring to everybody. 8 Q Can you offer me any specifics with respect 9 to the nurses as to what you are referring to in 10 that sentence? 11 A Yes. I think it has been my testimony for 12 the last two hours or so that they knew he was ill 13 and they intentionally didn't see him. They 14 intentionally passed him on. They didn't insure he 15 was seen. They didn't meet their requirements and 16 that's what happened. 17 Q When you referred to Mr. Stout's complaints, 18 you're talking about what he reported to Nurse 19 Adams, is that correct? 20 A Well, that's a start, but it continued. He 21 didn't get better after 6:00 at night, he got 22 substantially -- he did what happens to GI tract 23 problems if it doesn't get treated. It got worse 24 and worse and worse and worse and worse. So, yeah, 25 that's what I'm referring to, not just Adams, but</p>	<p style="text-align: right;">Page 64</p> <p>1 subjective to the person, right? 2 A Well, what they exhibit, let's put it that 3 way. 4 Q Based on what you testified to earlier about 5 the decedent's behavior, it would lead you to 6 believe that he was in pain, but you personally 7 aren't in his head. It's a subjective thing. 8 You don't know one way or another, 9 right? 10 MR. PLEBAN: Asked and answered. 11 THE WITNESS: I'm a professional physician 12 licensed by the State of Missouri to know some of 13 these things. What I do know is that, if you have 14 peritonitis, generalized peritonitis, you are in 15 excruciating pain. Whether you exhibit it, whether 16 you are forced to have a high endorphin level in 17 your body to maybe help you out or you've learned 18 how to deal with substantial pain, you're in pain 19 and I don't think that you can find an expert that 20 says, if you have peritonitis that kills you and 21 weren't in pain, let me know. Maybe they don't have 22 a sensory part of their brain that's functioning. 23 Q (By Mr. Breithaupt) And, you know, it's not 24 my intention to argue with you here. All I'm 25 highlighting here is you mentioned and used a couple</p>
<p style="text-align: right;">Page 63</p> <p>1 there were other people as well. 2 Q About six lines down you say, "He was in 3 excruciating pain throughout this process with the 4 pain building to a tremendous level." 5 How is it that you came to that 6 conclusion? 7 A Forty-two years of treating this problem. I 8 guarantee you -- he died of peritonitis, right? I 9 mean, I don't think there is any doubt based on the 10 medical examiner's report that he got peritonitis 11 and that is an excruciating, painful death. He was 12 lying on the floor. He couldn't sit up. He 13 couldn't do any of those things that all of us are 14 sitting here doing because his perineum was so 15 terribly inflamed. He was vomiting and trying to 16 clear his GI tract. Those are all symptoms of his 17 disease, and it was an excruciating, terrible thing. 18 Q You would acknowledge that that is 19 subjective to the person, correct? 20 A Well, I think what is subjective to the 21 person is there are studies done on more stoic 22 groups of people and less stoic groups of people, 23 but peritonitis is concerning. Pray that you never 24 get peritonitis. 25 Q I'm just referring to pain level. That is</p>	<p style="text-align: right;">Page 65</p> <p>1 of terms. You say, "Excruciating pain that was 2 building to a tremendous level." 3 And the only point that I'm making 4 here is that is a subjective statement, isn't it? 5 A I don't think so. I don't think it is 6 subjective at all. You are asking a professional 7 emergency physician what his opinion is. We don't 8 have people die of peritonitis anymore. It doesn't 9 happen. Why? Because we can treat it. We can 10 treat people who've got a ruptured viscus like he 11 had who gets generalized peritonitis and we treat 12 them. 13 I haven't seen a person die of 14 peritonitis in forever because we take care of these 15 people before they die. He died of peritonitis. 16 That's not my opinion. That's the opinion of the 17 medical examiner and that is an awful, awful death. 18 Q I understand that. I was just talking about 19 the level of pain. 20 MR. PLEBAN: Is there a question? 21 Q (By Mr. Breithaupt) So you said that his 22 pain was easily treatable. 23 How would they have gone about 24 treating that? 25 A Morphine, Dilaudid, Fentanyl, IV medications</p>

<p style="text-align: right;">Page 70</p> <p>1 Mr. Daniel Stout, a 21-year-old male who died in the 2 custody of the Justice Center on June 11, 2019." 3 That's not correct, is it? 4 A No, it's not. He died in Bonne Terre. 5 Q And he also was not 21 years old, was he? 6 A I don't believe he was. I'm looking at this 7 myself, sir. 8 Q And also directing your attention to page 9 four where it says, "Mr. Stout needed transport to 10 an emergency room where he would have been properly 11 evaluated and treated for his condition and would 12 have survived." 13 That's not accurate either, is it? 14 A That's 100 percent accurate, sir. 15 Q There is no way that you can determine 16 whether or not medical attention at that time would 17 have saved Mr. Stout's life, is it? 18 A No. That's 100 percent my opinion based on 19 doing this. I have people, sir, shot ten times 20 through their chest, abdomen. The other day I had 21 someone in peri-arrest from a car accident. Ten 22 minutes later, I had six units of blood in her, went 23 to the operating room and survived. So this is what 24 we do for a living. So that is 100 percent correct. 25 He was not terminal until he arrested.</p>	<p style="text-align: right;">Page 72</p> <p>1 had nothing to do with drug use that he may or may 2 not have done eight days before he came to the jail. 3 Are you suggesting that he did drugs 4 in the jail? 5 MR. PLEBAN: He's asking the questions. 6 THE WITNESS: Well, I'm kind of offended by 7 the question. 8 Q (By Mr. Banks) Doctor, when you performed 9 your exam -- how many medical reports -- how many 10 expert witness reports have you prepared in your 11 42-year career? 12 A I don't know. 13 Q More than 100? 14 A I don't know. I don't even think about it. 15 I actually prepare an expert report every time I see 16 a patient. 17 Q And is it similar to the report that you 18 prepared in this case? 19 A Well, I prepare a report based on, you know, 20 seeing patients all the time. This is a report 21 given to Mr. Pleban and so I don't know how many I 22 have done. 23 Q Doctor, did I understand your direct 24 testimony where you said that you reviewed a copious 25 amount of documents in preparation for this</p>
<p style="text-align: right;">Page 71</p> <p>1 Q And that is your opinion, isn't it? 2 A Well, that's just not my opinion. That is 3 what I do. 4 Q Doctor, what role did Mr. Stout's drug abuse 5 play in his death? 6 MR. PLEBAN: Well, let me just object to the 7 foundation of this with the term drug abuse. There 8 is no evidence for that. Improper hypothetical. Go 9 ahead. 10 THE WITNESS: Well, he had been in the 11 custody in the jail for eight days, so whatever 12 drugs he had in his system were out. So 13 substantially given this, it had nothing to do with 14 it. 15 Q (By Mr. Banks) Do you believe that 16 Mr. Stout's proclivity for using drugs made him more 17 likely or less likely to die of this condition? 18 MR. PLEBAN: Let me object. It lacks 19 foundation because there is no evidence in this case 20 that there is a proclivity for drug abuse so it 21 lacks foundation and it is an improper hypothetical 22 because of that and it asks the doctor to speculate 23 because of lack of foundation. 24 THE WITNESS: Sir, he died of a perforated 25 bowel and overwhelming sepsis from peritonitis. It</p>	<p style="text-align: right;">Page 73</p> <p>1 deposition? 2 A No. I said I previously reviewed a copious 3 number of documents. I reviewed all of that stuff 4 that was sent and then I did not review all of those 5 documents in preparation for this deposition. 6 Q But you did review during the course of 7 being an expert, plaintiff's first amended 8 complaint? 9 MR. PLEBAN: Do you want to have him look at 10 this? Is that what you're asking? 11 MR. BANKS: No, I'm not. But he can if he 12 wants to. 13 THE WITNESS: I'm sure I reviewed it in the 14 past some time ago. 15 Q (By Mr. Banks) And, Doctor, how did your 16 interview with Lieutenant Colonel Troy Doyle go? 17 A How did my what? 18 Q How did your interview with Lieutenant 19 Colonel Troy Doyle go? 20 A I did not interview him. 21 Q And is it true that you saw the deposition 22 transcript of Tanya English, isn't that correct? 23 A Yes. 24 Q Megan Rose? 25 A Yes.</p>